

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
TOWN OF ORO VALLEY

THIS AGREEMENT is entered into 24 July, 2001, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF ORO VALLEY acting by and through its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. The State has approved the exchange of \$698,400.00 in Highway User Revenue Funds (HURF) to the Town for design of improvements to First Avenue, and such funds will be repaid to the State by withholding from the Pima Association of Governments (PAG) federal funds and the obligation authority for federal funds in the amount of \$883,125 00.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

=====

NO 24777
Filed with the Secretary of State

Date Filed: 07/24/01

Patricia Bayless
Secretary of State

By Dick V. Gruenewald

II. SCOPE OF WORK

1. The Town will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Be responsible for any additional funds required to complete the project design.

c. Invoice the State for 30% of the project design cost at the 30% level of completion.

d. Invoice the State for 30% of the project design cost at the 60% level of completion.

e. Invoice the State for 30% of the project design cost at the 90% level of completion.

f. Invoice the State for 10% of the project design cost at the 100% project design completion stage after final project review is completed by PAG representatives.

2. The State will:

a. Within 30 days after receipt and approval of invoices, advance the Town HURF funds in the amount of \$698,400.00 in accordance with paragraph II.1.c., d. e. and f. above.

b. Withhold from PAG, federal funds and the obligation authority of federal funds in the amount of \$883,125.00.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The Town assumes full responsibility for the acquisition of right-of-way, right-of-way plans, project design, plans and specifications, reports, construction and the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, and court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Town of Oro Valley
Town Manager
11000 N. La Canada Drive
Oro Valley, AZ 85737-7015

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF ORO VALLEY, ARIZONA

STATE OF ARIZONA
Department of Transportation

By 
PAUL LOOMIS
Mayor

By 
MARY LYNN TISCHER, Director
Transportation Planning

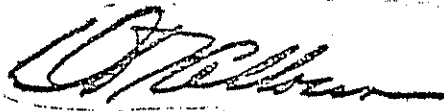
ATTEST

By 
KATHRYN CUEVELIER
Town Clerk

RESOLUTION

BE IT RESOLVED on this 22nd day of April 2001, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona, that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Town of Oro Valley for the purpose of exchange MURF funds for improvements to First Avenue in the Town.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Director of Transportation Planning approval and execution.

A handwritten signature in dark ink, appearing to read 'D. Allocco', is written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

RESOLUTION NO. (R)01-41

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AUTHORIZING AND APPROVING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE STATE OF ARIZONA TO UTILIZE THE HURF EXCHANGE PROGRAM FOR THE FIRST AVENUE: CDO TO TANGERINE ROAD DESIGN PROJECT

WHEREAS, ORO VALLEY is a political subdivision of the State of Arizona, is vested with all the rights, privileges and benefits, and entitled to immunities and exemptions granted municipalities and political subdivisions under the Constitution and laws of the State of Arizona and the United States; and

WHEREAS, the First Avenue: CDO to Tangerine Road Design Project is necessary for the public's health, safety and welfare in order to provide for the safe and efficient movement of traffic; and

WHEREAS, pursuant to Arizona Revised Statutes, Section 28-6993(f) local governments may exchange Surface Transportation Program monies for state highway funds so named by the State the HURF Exchange Program; and

WHEREAS, the TOWN COUNCIL deems it necessary in the interest of providing for health, safety and welfare of the citizens of the TOWN OF ORO VALLEY to enter into an intergovernmental agreement with the State of Arizona for a HURF Exchange for the First Avenue: CDO to Tangerine Road Design Project.

THEREFORE, BE IT RESOLVED, BY THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA:

That the Mayor is authorized to execute the intergovernmental agreement on behalf of the Town of Oro Valley.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona this 6th day of June, 2001.

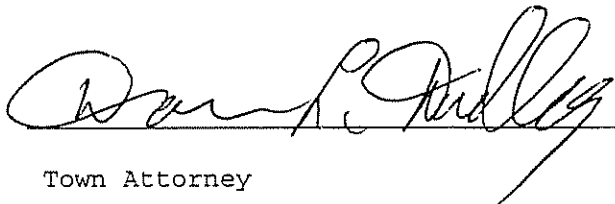
TOWN OF ORO VALLEY


Paul H. Loomis, Mayor

APPROVAL OF THE ORO VALLEY TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the TOWN OF ORO VALLEY and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

DATED this 17th day of June, 2001.


Town Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL

TRN Main: (602) 542-1680

Direct: (602) 542-8855

Fax: (602) 542-3646

MAIN PHONE : (602) 542-5025

FACSIMILE : (602) 542-4085


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR01-0579TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED July 19, 2001.

JANET NAPOLITANO
Attorney General



JEFFREY T. MURRAY
Assistant Attorney General
Transportation Section

JTM:ggt

Enc.

694196